

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

IN RE: LIPITOR (ATORVASTATIN CALCIUM) MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION)	MDL No. 2:14-mn-02502-RMG
)	
This Document Relates to:)	Civil Action No. <u>2:14-cv-01225-RMG</u>
)	
Dolores Jaszcak	,	SHORT FORM COMPLAINT
Plaintiff(s),)	JURY TRIAL DEMANDED
)	

SHORT FORM COMPLAINT

Plaintiff(s) file(s) this *Short Form Complaint and Demand for Jury Trial* against Defendants named below by and through the undersigned counsel. Plaintiff(s) incorporate(s) by reference the specific allegations indicated below of Plaintiffs' *Master Long Form Complaint and Demand for Jury Trial* in *In re: Lipitor (Atorvastatin Calcium) Marketing, Sales Practices and Products Liability Litigation*, MDL 2502 in the United States District Court for the District of South Carolina, Charleston Division. Plaintiff(s) file(s) this *Short Form Complaint and Demand for Jury Trial* in accordance with and pursuant to Case Management Order No. 4 by The Honorable Richard M. Gergel.

In addition to those causes of action contained in Plaintiffs' Master Long Form Complaint, where certain claims require specific pleadings and/or amendments, Plaintiff(s) shall add and include them herein.

IDENTIFICATION OF PARTIES

1. Plaintiff(s) herein is/are:

- Plaintiff, the Injured Party, Dolores Jaszcak is a resident and citizen of New York.
- Plaintiff, Injured Party's, spouse, _____, is a resident and citizen of _____. (Required only for claims by Injured Party's spouse.)
- Plaintiff as Administrator/Personal Representative/Executor/other of The Estate of _____, deceased/Injured Party brings this claim on behalf of the Estate of _____. A copy of Letters of Administration, where required for the commencement of such a claim, is attached hereto.

2. The following entities are made Defendants herein:

- Pfizer Inc.
- Greenstone LLC f/k/a Greenstone Limited ("Greenstone"). (Greenstone was not involved in the sale of atorvastatin calcium tablets until January 2013.)
- Other: McKesson Corporation

VENUE AND JURISDICTION

3. Jurisdiction in this Complaint is based on:

- Diversity of Citizenship
- Other (As set forth below, the basis of any additional ground for jurisdiction must be pled in sufficient detail as required by the applicable Federal Rules of Civil Procedure.)

4. District Court and Division in which you might have otherwise filed absent the direct filing Order entered by this Court: Superior Court of the State of CA County of Los Angeles

CASE SPECIFIC FACTS

5. Plaintiff/Injured Party began taking Lipitor® (atorvastatin calcium) as directed and prescribed by her treating physician(s).

- a. Approximate Dates Plaintiff Started and Stopped taking Lipitor:
Approximately August 2011 - June 2013
- b. State(s) of Ingestion: New York
- c. Gender: Female
- d. Current Age or Date of Death if Plaintiff is deceased:
69 years old

6. Subsequently, Injured Party was diagnosed with Type 2 Diabetes.

- a. Date of Diagnosis with Type 2 Diabetes: Approx. February 2012
- b. State of Diagnosis: New York

7. Plaintiff/Injured Party has suffered severe and permanent physical and emotional injuries including, but not limited to, the development of Type 2 Diabetes as a result of her ingestion of the prescription drug Lipitor® (atorvastatin calcium).

8. As a direct, proximate and foreseeable result of Defendants actions or inactions, Plaintiff suffered grievous bodily injury and consequently economic and other losses, including but not limited to pain and suffering, emotional distress and loss of enjoyment of life, as described in detail in Plaintiffs' *Master Long Form Complaint and Demand for Jury Trial*.

CAUSES OF ACTION

9. Plaintiff(s) hereby adopt(s) and incorporates by reference, the *Master Long Form Complaint and Demand for Jury Trial* as if set forth fully herein.

10. Furthermore, the following claims and allegations are asserted by Plaintiff(s) and are herein adopted by reference from Plaintiffs' *Master Long Form Complaint*:

- First Cause of Action

(Negligence)

- Second Cause of Action
(Negligent Misrepresentation)
- Third Cause of Action
(Negligent Design)
- Fourth Cause of Action
(Strict Products Liability-Design Defect/Products Liability-Design Defect)
- Fifth Cause of Action
(Strict Products Liability-Failure to Warn/ Products Liability-Failure to Warn)
- Sixth Cause of Action
(Breach of Express Warranty)
- Seventh Cause of Action
(Breach of Implied Warranties)
- Eighth Cause of Action
(Fraud and Misrepresentation)
- Ninth Cause of Action
(Constructive Fraud)
- Tenth Cause of Action
(Loss of Consortium)
- Eleventh Cause of Action
(Wrongful Death)
- Twelfth Cause of Action
(Unjust Enrichment)
- Punitive Damages

11. Furthermore, Plaintiff(s) assert(s) the following additional theories and/or State Causes of Action against the Defendants identified in Paragraph 2 above: (Additional theories and/or State Causes of Action are attached hereto.) State Consumer Protection Act.

WHEREFORE, Plaintiff(s) pray(s) for relief and judgment against Defendants as set forth in the *Master Long Form Complaint and Demand for Jury Trial* as appropriate.

JURY DEMAND

Plaintiff(s) hereby demand(s) a trial by jury as to the claims in this action.

Dated: 7/15/2014

Respectfully Submitted,

/s/ Pamela A. Borgess

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